

Minutes of the Special Meeting of September 20, 2006

One Twin Pines Lane, Belmont, California

**CALL TO ORDER 7:30 P.M.**

**ROLL CALL**

COUNCILMEMBERS PRESENT: Lieberman, Dickenson, Mathewson

COUNCILMEMBERS RECUSED: Feierbach, Warden

Staff Present: Interim City Manager Belanger, City Attorney Zafferano, Community Development Director de Melo, City Clerk Cook.

**CONTINUED PUBLIC HEARING**

**Public Hearing to consider General Plan and Zoning Ordinance amendments regarding establishment of a slope/density requirement for new subdivisions in the R-1A, R-1B, and R-1C (single family residential) zoning districts (continued from 9/12/06)**

Mayor Mathewson noted the continued recusal of Councilmembers Feierbach and Warden due to the fact that they live within 500 feet of a parcel potentially affected by this ordinance.

Community Development Director de Melo reviewed the discussion and actions at the meeting of September 12 when this was first reviewed. He noted that the proposed ordinance meets the goals and objectives of the General Plan. He clarified that as a result of direction at the last meeting, the slope density table had been modified from one table to three tables, one for each of the R-1A, B, and C zoning districts. As a result of the new table, of the 86 lots originally identified as being impacted, there are now 30.

Mayor Mathewson reopened the Public Hearing.

**Will Dubrul**, Belmont resident, noted that no one that he approached refused to sign the petition he presented at the last meeting. He expressed concern regarding the grandfathering in of the two pending subdivision applications, as this is not usually done. He stated that fees would likely need to be repaid.

**ACTION**: On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the Public Hearing was unanimously closed by a show of hands (3-0, Warden/Feierbach recused).

Councilmember Lieberman stated that he had given considerable thought to this issue since the previous Hearing, and had gathered additional information to help in his deliberations, including discussions with a former Planning Commission member and a tour of the City. It was worthwhile to have continued the Hearing. The new tables are much closer to something he can support. He described some further modifications that he would recommend. He noted some areas are less restrictive, and some areas, especially at the higher slopes, are more restrictive than the original Planning Commission recommendation. There is no rational basis to require a lot larger than one acre in the R-1 zoning district, but it is appropriate for the HRO (hillside residential open space) district. Protecting hillsides is important, and his proposed changes meet that goal.

Community Development Director de Melo displayed a chart showing the differences between those presented on September 12<sup>th</sup> and Councilmember Lieberman's proposal.

In response to Councilmember Dickenson, Community Development Director de Melo clarified that the area behind Carlmont High School is zoned HRO, and would not be affected by the proposed ordinance. It will affect only 30 lots in the R-1 zoning district. He noted that most private school sites are zoned Planned Development (PD), and any change in use from school to residential would require a PD amendment, Conceptual and Detailed Development Plans, and a General Plan amendment.

Councilmember Dickenson stated that he supports some of the Planning Commission's recommendations and some of Councilmember Lieberman's recommendations, especially those for properties with a greater than 27 percent slope.

Discussion ensued regarding the table comparisons.

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the Public Hearing was unanimously reopened by a show of hands (3-0, Warden/Feierbach recused).

**Will Dubrul,** Belmont resident, noted that Councilmember Lieberman stated at the last meeting that he was not educated regarding this issue, but has now presented information. He wanted to know why development should be less strict in certain levels.

Councilmember Lieberman responded that this issue is about hillside protection. Slopes of up to 10 percent are relatively flat. The Planning Commission took a hard approach. He is proposing fewer restrictions on the lower slopes and more restrictions on the higher slopes.

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the Public Hearing was unanimously closed by a show of hands (3-0, Warden/Feierbach recused).

Mayor Mathewson stated he prefers more restrictions than the Planning Commission's recommendations. Staff created a reasonable compromise. He cannot support grandfathering the two applications unless an application is complete or they have secured a building permit. Traffic is an issue, and being environmentally sound is a core value of the community. This issue is not about open space but about more room around a home, which gives a feeling of open space. Slope density should be applied to the whole City, not just the HRO zone. Geologic issues exist in other than the HRO zone, and there have been slide problems in many areas. It is not unusual for a community to make land-use changes over time. The R-1C zone is not as important as the other two, and the highest concern is the R-1B, since that is where the majority of the affected lots are located. He supports the table recommended in the staff report, and cannot support loosening as much as proposed by Councilmember Lieberman. A ten percent slope is significant. He can support a 45,000 square foot lot requirement at 35 percent slope and above. Not many lots are affected at this level.

Councilmember Dickenson stated that Measure F was about open space, and this issue is about private property. It is an important decision. He supports Councilmember Lieberman's proposed figures at the 27-35 percent slope, also the 35 percent and above. Lot sizes for slopes between 10 and 20 percent need to be increased, as Councilmember Lieberman's proposed figures are too low.

Discussion ensued regarding formulation of tables and methodology.

Council concurred regarding the R-1C figures, the lot sizes for 30 percent and higher slopes for all three zones, and 10-14 percent figures in the R-1A table as presented by Councilmember Lieberman.

Discussion ensued regarding adjustments in some of the square footage at certain slopes, including splitting the difference in the lot sizes between staff's table and Councilmember Lieberman's proposal.

Council concurred with the changes made for slopes of 20-29 percent, that increments of 500 square feet be applied to slopes of 15-20 percent, and to split the difference in the R-1B chart.

**RECESS: 9:20 P.M.**

**RECONVENE: 9:35 P.M.**

Community Development Director de Melo reviewed the changes made to the table based on Council direction. He noted that no additional lots are affected as a result of these changes, and a number of them continue to be un-subdividable, even with the changes as noted.

Council concurred regarding the newly-created tables for each of the zoning districts.

Councilmember Lieberman stated that some compromises are stricter than the staff recommendation. He is still uncomfortable with some of the individual numbers, but he can support the tables as amended, and will compromise.

Discussion ensued regarding grandfathering of existing applications.

In response to Mayor Mathewson, Community Development Director de Melo clarified that fees have been paid for both applications, and some staff work has been performed against fees paid for the Alomar Drive proposal. The application for Talbryn Drive was very recently submitted, and no work has been performed to date.

In response to Mayor Mathewson, City Attorney Zafferano clarified that the law states that a property owner does not have a vested right until the building permit is issued. There is no legal requirement to grandfather anything. Neither property is vested at this time.

Community Development Director de Melo noted that any unused fees would be returned if the applications are not grandfathered. He noted that the Alomar property would be un-subdividable under the new regulations, and two lots could be derived from the Talbryn property.

Mayor Mathewson expressed concern regarding retroactivity. He noted that if Proposition 90 passes, there is no ability to apply newer density. He also noted that the State of Oregon has had no new zoning changes since a similar proposition was adopted in that state.

Councilmember Dickenson stated that the change to the Council Protocols was fast-tracked. There is a need to focus on other issues. This is a piecemeal approach to General Plan changes. He noted the Planning Commission expressed concerns regarding the future use of private school property. Staff resources have been utilized for this issue. He supports grandfathering.

Councilmember Lieberman stated that Council governs by the spirit of the law. He did not support the process of how this issue arose. It is fair and right to allow the two applications to go through the process under the current regulations.

Councilmember Dickenson noted that slope density is only one tool for analyzing subdivisions. Applications will need staff review and Planning Commission review and approval or denial. This is done at a public meeting.

Mayor Mathewson stated that applicants do not have rights until vested by law. Although it violates his personal principles, he can support grandfathering in order to pass the ordinance.

**ACTION:** On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, Resolution 9817 Amending Sections 2008 and 2011 of the Belmont General Plan to Establish a Slope/Density Requirement for new Subdivisions in the R-1A, R-1B, and R-1C Single-Family Residential Zoning Districts was unanimously approved by a roll call vote (3-0, Warden/Feierbach recused).

**ACTION:** On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, and unanimously approved by a roll call vote (3-0, Warden/Feierbach recused) to introduce an Ordinance amending Sections 4.2.3(a) & (c) of the Belmont Zoning Ordinance 360 to establish a Slope/Density Requirement for new Subdivisions in the R-1A, R-1B, and R-1C Single Family Residential zoning Districts, to waive further reading, and to set the second reading and adoption for September 26, 2006, said ordinance to incorporate changes to the tables as noted, and to grandfather in any subdivision application received by 5:00 p.m. on September 12, 2006.

Councilmember Lieberman stated that this issue came a long way in two months. There was much thought and compromise put into its passage, and work was done by all five Councilmembers on this matter.

Mayor Mathewson stated he anticipated an egregious process, and he appreciates the compromises reached. This shows that everyone can work together.

**ADJOURNMENT** at this time, being 9:55 p.m. this Special Meeting was Adjourned.

Terri Cook

**Belmont City Clerk**

Meeting Tape Recorded and Videotaped  
Audio Recording 645  
Minutes approved 10/24/2006